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Report of the Blue Ribbon Commission on Solid Waste Management Pursuant to Resolve 2006 Chapter 207

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I. INTRODUCTION

During the course of the Second Regular Session of the 122nd Legislature, the Natural Resources Committee heard and considered a number of bills related to solid waste management issues in Maine. Some of these were complex and contentious matters (such as the combustion of construction and demolition wood fuel in wood fired boilers) which drew many interested parties into the discussions and debates. Ultimately, the Committee decided to defer further deliberations on the issues to a “blue ribbon commission” established for the specific purpose of comprehensively reviewing a number of aspects of the management of solid waste in Maine.

The Blue Ribbon Commission on Solid Waste Management (“BRC” or “Commission”) was established by the Maine Legislature through emergency Resolve 2006 Chapter 207 (attached as **Appendix A**) in May 2006. The resolve directed that a report of the Commission’s findings and recommendations be submitted to the Joint Standing Committee on Natural Resources and that the report “include recommendations with respect to the appropriate solid waste management regime in this State, including the management of construction and demolition debris, and the appropriate solid waste management hierarchy for this State”. This report is submitted in accordance with the resolve.

II. PROCESS

A. Commission Membership

The composition of the BRC was directed through the provisions of the Resolve which required that: “Three members appointed by the President of the Senate, including at least one member of the Senate with knowledge of solid waste management matters and at least one public member with expertise in solid waste management matters; four members appointed by the Speaker of the House, including at least one member of the House with knowledge of solid waste management matters and at least one public member with expertise in solid waste management matters; the Commissioner of Environmental Protection or the commissioner’s designee; and, the Director of the State Planning Office within the Executive Department or the director’s designee”, participate on the BRC. Senator John L. Martin and Representative Robert S. Duchesne co-chaired the Commission. A full membership list is attached as **Appendix B**.

B. Staffing

The Commission was staffed by Carla Hopkins and Michael Parker of the Maine Department of Environmental Protection (MDEP). Staff were responsible for meeting logistics; compiling and distributing background materials to the BRC members; compiling meeting notes; maintaining a list of interested parties; notifying interested parties of scheduled meetings; and establishing a Commission web page on the MDEP website.

C. Meetings

The Commission met a total of nine times. Six meetings were held in Augusta and three were held in other locations throughout the state. Meeting notes for each of the 9 meetings are attached as **Appendix C**. Following is a list of meeting dates and locations.

DATE	LOCATION
August 1, 2006	Room 214, Cross State Office Building, Augusta
September 6, 2006	Room 214, Cross State Office Building, Augusta
October 4, 2006	Northeastland Hotel, Presque Isle
October 10, 2006	Sheraton Hotel, South Portland
October 18, 2006	Ramada Inn, Bangor
November 15, 2006	Room 437, State House, Augusta
November 29, 2006	Room 437, State House, Augusta
December 13, 2006	Room 437, State House, Augusta
December 20, 2006	Room 437, State House, Augusta

Prior to the October 4, 2006 meeting at the Northeastland Hotel in Presque Isle, Commission members toured the Tri-Community Landfill in Fort Fairfield, the City of Presque Isle Landfill in Presque Isle, and the City of Presque Isle's recycling center in Presque Isle.

Prior to the October 10, 2006 meeting at the Sheraton Hotel in South Portland, Commission members toured the Maine Energy Recovery Company's incinerator in Biddeford and the EcoMaine incinerator in Portland and landfill in Scarborough/South Portland.

Prior to the October 18, 2006 meeting at the Ramada Inn in Bangor, Commission members toured the Pine Tree Landfill (Casella Waste Systems) in Hampden and the State-owned Juniper Ridge Landfill in West Old Town.

D. Interested Parties and Public Participation

A list of interested parties was maintained by the staff. Agendas for each meeting of the BRC were sent via e-mail to all interested parties prior to each meeting.

All Commission meetings were open to the public and the last four meetings were available via webcast. Members of the public wishing to speak or to address the Commission were given an opportunity at the end of each meeting. Additionally, the December 13, 2006 meeting was specifically designated for public comment.

Written information and comment were accepted by staff and forwarded to all Commission members. When possible, all written submittals were also posted on the Commission web page. If posting to the web page was not possible because of the length of a document or because of its unavailability in an

electronic format, a copy was made available at MDEP's Augusta office for review.

E. Background Information

At the initial August 1, 2006 meeting BRC members made requests for background information on various solid waste management subjects. This background information was gathered, organized into a binder by topic area, and provided to Commission members. Any information later requested by Commission members was subsequently added to the binders.

III. THE ISSUES

The provisions of the Resolve required that the Commission undertake a comprehensive review of the management of solid waste in the state and that priority consideration be given to: the State's importation and exportation of municipal solid waste and construction and demolition debris; a management structure for how solid waste should be managed in the State, and the solid waste management hierarchy. The Resolve further required that the Commission review the definition of "host community" for the purpose of eligibility for host community benefits, municipal solid waste incineration, the state recycling and waste reduction goals specified in statute, and other matters considered relevant by the Commission.

Following Commission meetings in late summer and fall of 2006, summaries of key questions and issues that had been raised and discussed, possible courses of action for further deliberation, and related comments from interested parties were prepared for four broad topic areas: host community benefits, solid waste management structure, construction/demolition wood fuel, and the waste management hierarchy. These summaries served as discussion guides during the Commission's preparation of recommendations. The summaries are attached as **Appendix D**.

IV. RECOMMENDATIONS OF THE COMMISSION

In December 2006, the BRC developed recommendations in each of the four topic areas described in section III above. Although members were generally in agreement regarding most recommendations, there were 3 recommendations that drew a split vote (one concerning host community benefits and two related to CDD wood fuel). These are identified in the list below by a double asterisk at the beginning of the recommendation. Following are the recommendations of the BRC in each of the four topic areas. The recommendations should be read and considered in conjunction with the Commission's meeting notes of December 20, 2006, the meeting date on which the BRC completed its discussion of the final recommendations.

A. Final Recommendations Concerning Host Community Benefits:

Revise existing statutory language to:

1. Require a review of existing host community benefit agreements with commercial solid waste disposal facilities when significant facility changes occur which may increase or decrease municipal financial impacts, including, but not limited to those involving operations, disposal capacity and/or ownership.
2. Allow communities adjacent to the actual host community of a commercial solid waste disposal facility to petition the Commissioner of the Department of Environmental Protection for eligibility for host community benefits under 38 MRS§1310-N(9) (which pertains to host community benefits for commercial disposal facilities). The adjacent community would be required, as a basis for standing to apply, to specifically identify and quantify direct municipal financial impacts related to necessary infrastructure development/maintenance and/or necessary service provision as a result of the location or operation of the disposal facility.
3. Allow communities adjacent to the actual host community of a state-owned solid waste disposal facility to petition the Commissioner of the Department of Environmental Protection for eligibility for host community impact fees pursuant to 38 MRS§2176 (which authorizes host community benefits for publicly owned disposal facilities). The adjacent community would be required, as a basis for standing to apply, to specifically identify and quantify direct municipal financial impacts related to roads, emergency response and/or monitoring, as provided in 38 MRS§2176.
4. **Provide that no language in a host community agreement with either a commercial or state-owned solid waste disposal facility may require a municipality to forego its regulatory oversight role.

B. Final Recommendations Concerning Solid Waste Management Structure:

1. Recommend that the Natural Resources Committee review the definition of “commercial solid waste disposal facility”.
2. Revise the statutory language concerning the “public benefit determination” process to specify that:
 - a. Any proposal for a new or expanded solid waste disposal facility or for increased capacity at such a facility would require a determination of public benefit. This process would be conceptually similar, from a

regulatory review perspective, to the “Certificate of Need” process used for hospital construction/expansion.

- b. Any facility, whether publicly or privately owned, be required to undergo the Public Benefit Determination process.
 - c. “Public benefit determinations are subject to review and revision by the Department if it is found that a material change in the underlying facts or circumstances upon which a public benefit determination was based has occurred, or is proposed, including but not limited to changes related to disposal capacity. The Department may require the holder of a public benefit determination to submit an application for modification of that determination if it is found that an actual or proposed change has occurred in those underlying facts or circumstances.”
3. Endorse the development of a revised solid waste management fee structure that:
- a. Is broad-based and provides long-term, stable funding for necessary state solid waste programs;
 - b. Provides for additional technical and/or financial support to municipalities and regions for solid waste management;
 - c. Provides for adequate state solid waste program staffing and other resources to appropriately administer state solid waste programs;
 - d. Extends to a broader spectrum of waste types and facilities; and,
 - e. Is designed to support and further the goals of the statutory waste hierarchy.
4. Investigate/evaluate the use of some portion of the bottle bill “float” revenue to support state solid waste management programs.
5. Request that DEP and SPO work cooperatively to identify solid waste data needs, and the most appropriate and effective means of gathering and managing current data for timely reporting.
6. Endorse the following recommendations from the “Review of State Solid Waste Management Policies” developed by SPO in April 2006:
- ✓ #3: Keep the ban on the development of new commercial disposal facilities.

- ✓ #4: Continue state responsibility for siting and operating new solid waste disposal facilities.
- ✓ #5: Preserve existing municipal responsibility for managing solid waste.
- ✓ #8: Update the waste generation and disposal capacity report section of the state plan annually and brief the Governor, Department of Environmental Protection and Joint Standing Committee on Natural Resources on new information contained in the update.
- ✓ #10: Lengthen from four to six years the “trigger” for the office to alert the Legislature of the need to develop state-owned disposal capacity.
- ✓ #14: Expand the analysis of the state’s needs and capacity for managing waste, by adding the following: cover a 25-year time horizon, identify and assess any regional capacity issues, assess volume as well as tonnage, assess stability and life expectancy of existing facilities, assess the amount and type of imported and exported waste, how it is being used, and where it is going, develop a protocol for responding to natural disasters, assess impact of recycling on disposal capacity, and analyze recycling and processing capacity.

7. Support and concur with the general approach taken to solid waste management in Maine’s 1989 solid waste management legislation. Also, generally support and concur with the findings of the Legislature in its declaration of policy of 38 M.R.S.A §1302, as listed below, although some of these findings developed in 1989 are somewhat dated since conditions have changed and substantial progress has been made with respect to development of disposal and recycling options.

- ✓ “The Legislature finds and declares it to be the policy of the State, consistent with its duty to protect the health, safety and welfare of its citizens, enhance and maintain the quality of the environment, conserve natural resources and prevent air, water and land pollution, to establish a coordinated statewide waste reduction, recycling and management program.
- ✓ The Legislature finds and declares that it is the policy of the State to pursue and implement an integrated approach to hazardous and solid waste management, which shall be based on the following priorities: reduction of waste generated at the source, including both the amount and toxicity of waste, waste reuse: waste recycling; waste composting; waste processing which reduces the volume of waste needing disposal, including waste-to-energy technology; and land disposal.

- ✓ The Legislature finds that it is in the best interests of the State to prefer waste management options with lower health and environmental risk and to ensure that such options are neither foreclosed nor limited by the State's commitment to disposal methods.
- ✓ The Legislature declares that it is in the public interest to aggressively promote waste reduction, reuse and recycling as the preferred methods of waste management.
- ✓ The Legislature finds that environmentally suitable sites for waste disposal are in limited supply and represent a critical natural resource. At the same time, new technologies and industrial developments are making recycling and reuse of waste an increasingly viable and economically attractive option which carries minimal risk to the State and the environment and an option which allows the conservation of the State's limited disposal capacity.
- ✓ The Legislature further finds that needed municipal waste recycling and disposal facilities have not been developed in a timely and environmentally sound manner because of diffused responsibility for municipal waste planning, processing and disposal among numerous and overlapping units of local government.
- ✓ The Legislature also finds that direct state action is needed to assist municipalities in separating, collecting, recycling and disposing of solid waste, and that sound environmental policy and economics of scale dictate a preference for public solid waste management planning and implementation on a regional and state level."

8. Authorize the Commissioner of the Department of Environmental Protection to direct waste streams to coordinate the four waste-to-energy plants during outages and scheduled shutdowns to conserve landfill space.

9. Remove the calendar limitation in 38 MRSA§1310-X(3)(B) related to contiguous property ownership and the expansion of commercial solid waste disposal facilities.

(**Note:** Although meeting notes reflect an 8-0 vote on this recommendation, one Commission member, upon final review of the report, is not in agreement with its inclusion.)

C. Final Recommendations Concerning Construction/Demolition Wood Fuel

1. **Repeal the statutory 50% limitation (total fuel by weight on an annual average) on the combustion of construction/demolition

debris. wood fuel as a substitute for conventional fuels in boilers, based on the performance of individual boilers. (This recommendation was made pending submission of reports concerning source separation, best available control technology, and the amount of CDD wood fuel substitution) to the Joint Standing Committee on Natural Resources by the Department of Environmental Protection as required by LD 141.)

2. **Establish statutory authority allowing the Commissioner of the Department of Environmental Protection to declare a temporary moratorium on the licensing of regulated facilities or activities, under a specified set of circumstances, when the Legislature is not in session and therefore unable to act directly on such a moratorium.
3. Recommend that the Natural Resources Committee review the issue of acceptance of out-of-state waste at state-owned solid waste disposal facilities.
4. Request that the DEP evaluate whether standards should be established that would require that a specified percentage of the mixed waste accepted by a construction/demolition debris processing facility be recycled and/or reused.
5. Request that DEP evaluate the issue of backhauling products in trucks that have delivered CDD wood fuel, to ensure that the practice does not pose an environmental or public health/safety threat.

D. Final Recommendations Concerning the Waste Management Hierarchy

1. Endorse the following recommendations from the “Review of State Solid Waste Management Policies” prepared by SPO in April 2006
 - ✓ #1: Maintain the solid waste management hierarchy to guide the management of Maine’s municipal solid waste in order to reduce the volume of waste requiring disposal.
 - ✓ #2: Maintain the 50% recycling goal. Continue to calculate and publish the statewide recycling rate using both state and federal methodologies.
 - ✓ #9: Add a legislative policy statement that favors waste reduction and maximizing waste diversion by encouraging new and expanded uses of solid waste generated in Maine as a resource.

- ✓ #16: Design and develop funding proposals for an ongoing public education and outreach campaign on the value of recycling and composting, targeting residents and businesses statewide.
- 2. Revise 38 MRSA§1310-N(5) to require minimum standards for the achievement of and/or the development of programs related to source reduction, reuse and recycling, by parties regulated by the Department.
- 3. Recommend supporting bond fund proposals that would make matching funds available to fund composting and recycling programs.

LIST OF APPENDICES

- **Appendix A** – Resolve 2006 Chapter 207 (Resolve, to Establish a Blue Ribbon Commission on Solid Waste Management)
- **Appendix B** – Membership List – Blue Ribbon Commission on Solid Waste Management
- **Appendix C** – Meeting Notes – Blue Ribbon Commission on Solid Waste Management
- **Appendix D** – Summary Sheets – Key Questions and Issues, Blue Ribbon Commission on Solid Waste Management, November 2006)

